

REMARKS

Dependent claims 13 and 21 have been rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Dependent claim 21 has been amended merely to define the inherent structure of the invention. These dependent claims are thus further restricted by the specific recitations of “the hood includes a tapered transition contour between distal and proximal ends thereof near the location along the cannula at which the first lumen extends beyond the open distal end of the second lumen to taper the sectional area of the cannula”, and “the hood is eccentrically disposed relative to an elongated axis of the first lumen within the cannula near the distal end thereof substantially in alignment with the second lumen”. Applicant submits that these dependent claims are amply specific about the tapered transition of the hood and the resultant tapered sectional area of the cannula, and offer no basis for lack of clarity or uncertainty about the structure as claimed. Specifically, the Examiner’s allusion to a ‘transition’ contour 152 is not a recitation in the claims at issue which, instead (with independent claim 7), define an open distal end of the second lumen positioned intermediate the proximal and distal ends of the first lumen, with the hood forming a tapered transition in that region. It is therefore respectfully submitted that dependent claims 13 and 21 define the invention with sufficient particularity and distinctiveness to be patentable to applicant.

Claims 7, 13 and 21 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Chin '233 in view of Jones '616. This rejection is respectfully traversed.

These claims specifically recite “a flexible and resilient hood having an open distal end and an open proximal end that is coupled to the distal end of the second lumen for recurring operation in a tapered transition orientation..., and in an expanded orientation....”, wherein “the hood includes a tapered transition contour between distal and proximal ends thereof near the location along the cannula at which the first lumen extends beyond the open distal end of the second lumen to taper the sectional area of the cannula”, or “the hood is eccentrically disposed relative to an elongated axis of the first lumen within the cannula near the distal end thereof substantially in alignment with the second lumen”.

These features of the claimed invention facilitate easy tissue dissection in response to advancing the tip and hood (in the tapered transition orientation, as claimed) through the tissue.

These features of the claimed invention are not disclosed or suggested by the cited references which are deficient of a flexible and resilient hood capable of forming a tapered sectional area of the cannula. At best, Chin '233 discloses a tissue-dissecting tip having an open access port 35 without a flexible and resilient hood in place. And, the collapsible channel of Jones '616 offers no tapering sectional area as claimed by applicant, but at best merely serves as a collapsible

instrument channel for supporting inserted instruments. Thus, merely combining Chin '233 and Jones '616 in a manner as proposed by the Examiner, only yields deficient disclosure that fails to establish even a *prima facie* basis from which a proper determination of obviousness can be made. It is therefore respectfully submitted that claims 7, 13 and 21 are now patentable to the applicant.

In the event the Examiner resolves to continue the claim rejections, he is respectfully requested to enter this amendment in order to simplify and clarify the issues for appeal.

Reconsideration and allowance of claims 7, 13 and 21 are solicited.

Respectfully submitted,
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